

Message Text

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R 141710Z APR 76

FM AMEMBASSY MONTEVIDEO

TO SECSTATE WASHDC 1058

C O N F I D E N T I A L SECTION 1 OF 3 MONTEVIDEO 1343/1

E.O. 11652: GDS

TAGS: SHUM, PINT, PINS, UY

SUBJECT: HUMAN RIGHTS IN URUGUAY--SECOND SUPPLEMENT (DTD JANUARY,
1976) TO THE INTERNATIONAL COMMISSION OF JURISTS' REPORT
ON URUGUAY OF JUNE 17, 1976: EMBASSY COMMENTS

REFS: (A) 75 MONTEVIDEO 3378, (B) 75 MONTEVIDEO 3425, (C) 75
MONTEVIDEO 3470, (D) 75 MONTEVIDEO A-157, (E) 75 MONTEVI-
DEO 4417, (F) MONTEVIDEO 490, (G) MONTEVIDEO
750, (H) MONTEVIDEO 753, (I) MONTEVIDEO A-17, (J) MONTEVIDEO
A-19

SUMMARY

EMBASSY COMMENTS ON THE "SECOND SUPPLEMENT TO THE INTERNATIONAL
COMMISSION OF JURISTS' REPORT ON URUGUAY OF JUNE 17, 1974" FOLLOWS.
PARAGRAPH AND SUB-PARAGRAPH NUMBERS UNSED IN THIS CABLE PARALLEL
PARAGRAPH AND SUB-PARAGRAPH NUMBERING IN THE ICJ SUPPLEMENT. THERE
ARE FEW NEW CHARGES IN THIS MOST RECENT ICJ DOCUMENT AS IT IS
BASICALLY A RECAPTULATION OF ALLEGATIONS SET FORTH IN PREVIOUS
ICJ AND AI REPORTS. MOST OF WHAT FOLLOWS HAS BEEN COVERED IN
DEPTH IN PREVIOUS EMBASSY REPORTS. THE EMBASSY FOUND, IN GENERAL,
THAT THE REPORT WAS CAST FOR THE MOST PART IN SWEEPING ALLEGATIONS,
ALTHOUGH SOME SPECIFIC CHARGES WERE MADE REGARDING ORGAINZATIONS,
INDIVIDUALS AND METHODS. WE ALSO NOTE THAT THE REPORT WAS NOT
BASED ON AN ON-THE-SCENE FOLLOWUP OF ITS ORIGINAL INVESTIGATION.
INSTEAD, IT RELIES ON WHAT IT TERMS "RELIABLE SOURCES IN
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URUGUAY," WHICH SOURCES ARE UNIDENTIFIED. END SUMMARY.

2. THE NAMES LISTED IN THE ICJ ANNEX ARE AMONG THOSE INCLUDED IN THE AI LIST COVERED IN REF G. THE EMBASSY HAS NO FURTHER INFORMATION ON THE PERSONS LISTED.

(1) IN THE NORMAL COURSE OF THEIR DUTIES, POLICE AND ARMED FORCES PERSONNEL ARE UNIFORMED. SOME ARRESTS ARE MADE BY PLAIN-CLOTHES OFFICERS, A PRACTICE FOLLOWED BY POLICE ELSEWHERE. ACCORDING TO EMBASSY INFORMATION, THE MEMBERS OF THE FUERZAS CONJUNTAS, WHICH HAVE BEEN GIVEN THE CHIEF RESPONSIBILITY AMONG URUGUAYAN SECURITY FORCES IN COMBATTING SUBVERSION, ARE SUPPOSED TO IDENTIFY THEMSELVES AS SUCH WHEN MAKING ARRESTS. WHETHER OR NOT THEY ALWAYS FOLLOW THIS PROCEDURE IS DIFFICULT TO DETERMINE. AS REPORTED IN REF J., ARTICLE 15 OF THE URUGUAYAN CONSTITUTION, WHICH PROVIDES FOR ARREST BY A "WRITTEN ORDER OF A COMPETENT JUDGE BASED ON REASONABLE GROUNDS," WAS IN EFFECT SUSPENDED BY THE MEDIDAS FRONTAS DE SEGURIDAD FOR THOSE PERSONS ACCUSED OF TERRORISM, SUBVERSION, OR OTHER "CRIMES AGAINST THE NATION." AS STATED IN REF H, THE MISSION BELIEVES THAT ABUSIVE EXCESSES AND PHYSICAL TORTURE, WHEN THEY OCCUR, ARE NOT CONSISTENT WITH GOU POLICY AND ARE NOT KNOWINGLY SANCTIONED BY THE HIGHEST GOU OFFICIALS. METHODS OF ARREST AND INTERROGATION, PLUS DELAY IN NOTIFICATION OF FAMILIES, DO CONSTITUTE PSYCHOLOGICAL ABUSE AND INSTILL FEAR WHICH IN SOME CASES MAY PRODUCE PHYSICAL CONSEQUENCES. THIS APPLIES, OF COURSE, TO SECURITY OPERATIONS ONLY, AS EXPLICIT CONSTITUTIONAL SAFEGUARDS AND TRADITIONAL LEGAL GUARANTEES STILL REMAIN VALID AND OPERATIVE FOR THE VAST MAJORITY OF URUGUAYANS AND FOR CIVIL OFFENDERS.

(2) AS STATED IN REF H, AS FAR AS THE EMBASSY HAS BEEN ABLE TO DETERMINE, THERE HAS BEEN NO SERIOUS LACK OF "BASIC NECESSITIES" FOR DETAINEES, AND FAMILIES ARE GENERALLY PERMITTED TO FURNISH SOME NEEDS PERIODICALLY, SUCH AS CHANGES OF CLOTHING. THE AI-ICJ ORIGINAL SURVEY IN 1974, BASED ON PRISON VISITS, FOUND CONDITIONS GENERALLY ACCEPTABLE. THE REPORT CHARGES THAT PERSONS ALREADY TRIED OR HAVING SERVED SENTENCES HAVE BEEN SECRETELY TRANSFERRED TO ARMY UNITS TO BE SUBJECTED TO TORTURE ONCE AGAIN AND THAT A SMALL GROUP OF THEM, COMPOSED OF TUPAMARO LEADERS, HAS BEEN KEPT IN SOLITARY CONFINEMENT. THE CHARGES LACK SPECIFICITY (NAMES, WHEN AND WHERE THE ALLEGED INSTANCES OCCURRED, UNITS INVOLVED) AND THE EMBASSY HAS NO INFORMATION TO DRAW ON TO SUPPORT OR CONTRADICT THEM.

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(3) THE RIGHT OF A PERSON TO HABEAS CORPUS OR SIMILAR JUDICIAL PROCEEDINGS, WHICH FINDS ITS LEGAL EXPRESSION IN ARTICLE 17 OF THE URUGUAYAN CONSTITUTION, HAS BEEN SUSPENDED FOR PERSONS ACCUSED OF TERRORISM, SUBVERSION, AND OTHER "CRIMES AGAINST THE NATION" (REF J)M AS STATED IN REF F, THERE IS A NEW LAW THAT HAS EXTENDED THE JURISDICTION OF MILITARY COURTS TO COVER THE TRIAL AND PUNISHMENT AS WELL AS THE PRE-TRIAL INVESTIGATION AND ARRAIGNMENT OF PEOPLE ACCUSED OF TERRORISM, SUBVERSION AND "OTHER CRIMES

AGAINST THE NATION." THIS HAS UNDOUBTEDLY CIRCUMSCRIBED THE
ROLE OF LAWYERS SEEKING TO DEFEND SUCH ACCUSED PERSONS. WITH
RESPECT TO THIS AND OTHER GENERAL CHARGES, THE GOU CONSIDERS THAT
IT HAS ESTABLISHED A LEGAL FRAMEWORK TO DEAL WITH SUBVERSIVE THREATS
AS IT PERCEIVES THEM.

(1) AS REPORTED IN REF B, THERE WERE SOME ARRESTS PRIOR TO MAY
DAY, 1975. HOWEVER, KNOWLEDGEABLE TRADE UNION SOURCES TOLD US
THE NUMBER WAS NOT LARGE. THE CHARGE THAT "ABOUT 1500 PEOPLE IN-
CLUDING MANY TRADE UNION LEADERS" WERE DETAINED IS IN OUR VIEW
AN EXAGGERATION. THE ARRESTS MADE WERE AIMED AT HEADING OFF
COMMUNIST ATTEMPTS TO FOMENT ANTI-GOVERNMENT DEMONSTRATIONS.
(2) REF C REPORTED THAT IN LATE APRIL SECURITY FORCES TEM-
PORARILY DETAINED SEVERAL HUNDRED WORKERS AT THE SALTO
GRANDE HYDROELECTRIC PROJECT AFTER THEY HAD ATTENDED A

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FM AMEMBASSY MONTEVIDEO

TO SECSTATE WASHDC 1059

C O N F I D E N T I A L SECTION 2 OF 3 MONTEVIDEO 1343/2

LABOR MEETING. THE WORKERS WERE HELD BRIEFLY WHILE A SEARCH WAS
MADE FOR A HALF DOZEN ARGENTINE "AGITATORS" WHO WERE FIRED AND
RETURNED TO THE ARGENTINE SIDE OF THE RIVER.

(3) THE "COMBINED PROCEEDINGS" MENTIONED IN THE ICJ REPORT WERE,
ACCORDING TO THE GOU, FOR THE PURPOSE OF DISMANTLING THE MILITARY
APPARATUS OF THE PCU AND WIDE PUBLICITY HAS BEEN GIVEN TO THE
REASON FOR THEIR ARREST (SEE REF E). FOR THE MOST PART ARRESTS
APPEAR TO HAVE BEEN MADE OF PERSONS ACTIVELY INVOLVED IN MILI-
TANT, CLANDESTINE COMMUNIST ORGANIZATIONS. THE OPERATIONS UNCO-
VERED LARGE QUANTITIES OF ARMS AS WELL. (REF E).

5. (1) THE FEDERATION OF SECONDARY EDUCATION TEACHERS, A COMMUNIST GROUP, WAS RAIDED AND CLOSED. OSTENSIBLY A UNION, ITS SELF-PROCLAIMED LEADERS WERE ACTING POLITICALLY AND WERE NOT ARRESTED FOR LEGITIMATE UNION ACTIVITIES.

(2) THE EMBASSY HAS NO INFORMATION TO SUPPORT OR CONTRADICT THESE CHARGES.

6. AS REPORTED IN REF B, THE CATHOLIC VISPERA WAS CLOSED. THE STATEMENT THAT PUBLICATIONS WHICH HAVE ADOPTED A CRITICAL STAND ARE INHIBITED FROM EXPRESSING THEIR VIEWS FOR FEAR OF BEING CLOSED DOWN IS BASICALLY CORRECT. NEVERTHELESS, SOME VEILED CRITICISM OF GOU POLICIES APPEARS IN MAJOR NEWSPAPERS FROM TIME TO TIME.

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7. THE NEWSPAPERS EL DIA WAS CLOSED FOR ONE DAY FOR THE REASONS STATED IN THIS SECTION.

8. REF D PROVIDED A COMPLETE REPORT ON THE ISSUE OF THE PASTORAL LETTER.

9. SEE REF D WITH RESPECT TO THIS STATEMENT.

10. THE EMBASSY HAS NO INFORMATION TO SUPPORT OR CONTRADICT THESE STATEMENTS.

11. IN A DECREE ISSUED ON OCTOBER 14, THE GOU ORDERED THE CLOSING OF THE PUBLISHING HOUSE EDITORIAL PUEBLOS UNIDOS (EPU) IN MONTEVIDEO, CLAIMING THAT IT WAS A FRONT ORGANIZATION FOR THE URUGUYAN COMMUNIST PARTY (PCU) AND HAD BECOME A MAIN DISTRIBUTION CENTER FOR SOUTH AMERICA OF COMMUNIST PROPAGANDA MATERIAL COMING FROM THE USSR AND EASTERN BLOC COUNTRIES. THE DECREE ALSO ORDERED THE SEIZURE OF ALL COMPANY PROPERTY AND THE INTERDICTION OF ANY FUNDS IT MIGHT HAVE ON DEPOSIT AT ANY LOCAL BANK (REF F). THE EMBASSY HAS NO INFORMATION ON THE BULKSHOPS AND THE OTHER PRINTING FIRM LISTED IN THE SUPPLEMENT.

12. THE EMBASSY HAS NO INFORMATION ON THIS SUBJECT BUT IT IS TRUE THAT MARXIST MATERIAL WOULD BE EXCLUDED FROM SCHOOLS.

13. THE STATEMENT IS BASICALLY CORRECT (REF C). WITH RESPECT TO PERSONS SUSPECTED OF TERRORISM, SUBVERSION, AND OTHER CRIMES AGAINST THE NATION, GOU PRACTICE, UNDER THE PRESENT MEDIDAS PRONTAS DE SEGURIDAD, LIMITS THEIR GUARANTEES WITH RESPECT TO CORRESPONDENCE (REF J).

14 AND 15. THE TRANSLATION OF ARTICLE 14 IN THE OAS EDITION OF THE

URUGUAYAN CONSTITUTION READS: "THE PENALTY OF CONFISCATION OF PROPERTY MAY NOT BE IMPOSED FOR REASONS OF A POLITICAL NATURE". (REF J). THE EMBASSY HAS NO INFORMATION TO EITHER CONFIRM OR DENY THE ALLEGATIONS IN PARA 14. RE PARA 15, THE EMBASSY'S TRANSLATION OF THE LAW 14373 READS "TEMPORARY ATTACHMENT" INSTEAD OF "PROVISIONAL SEIZURE." FOR THE TEXT OF THE LAW AND THE EMBASSY'S COMMENTS ON IT, SEE REF I.

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16. IT IS ARGUABLE THAT THE SECTION OF THE LAW ON THIS DOES NOT HAVE SO MUCH A "RETROACTIVE EFFECT" AS IT DOES A PROVISION FOR THE DISPOSITION OF PROPERTY ALREADY IN THE GOU'S HANDS. ARTICLE 105 OF THE ORDINARY PENAL CODE ITSELF PROVIDES FOR THE "PREVENTIVE EMBARGO" OF THE GOODS OF THE ACCUSED. BUT IT SHOULD BE REMEMBERED THAT THIS LAW IS NOT BASED ON ARTICLE 105 OF THE ORDINARY PENAL CODE AND IT IS NOT INTENDED TO AFFECT URUGUAYANS IN GENERAL. INSTEAD IT IS APPLICABLE TO THOSE URUGUAYANS WHOSE ACTIONS (TERRORISM, SUBVERSION, AND OTHER "CRIMES AGAINST THE NATION") FALL UNDER THE PURVIEW OF THE "LAW OF STATE SECURITY AND INTERNAL ORDER." (SEE REF I).

17. THE STATEMENT IN THIS SECTION APPEARS TO BE BASICALLY CORRECT WITH RESPECT TO THE USE BY THE GOU OF THE OFFICES AND PRINTING WORKS OF EL POPULAR, WHICH WAS ONE OF THE PCU PAPERS CLOSED DOWN BY GOVERNMENT DECREE ON DECEMBER 1, 1973 (REF J). THE EMBASSY HAS NO INFORMATION ON THE OTHER PREMISES MENTIONED.

18. ON DECEMBER 18, 1975, THE COUNCIL OF STATE APPROVED A NEW LAW (REF I) EXTENDING THE JURISDICTION OF MILITARY COURTS TO COVER THE TRIAL AND SENTENCING OF PEOPLE ACCUSED OF TERRORISM, SUBVERSION, AND OTHER "CRIMES AGAINST THE NATION" UNDER ARTICLE 60 OF THE MILITARY PENAL CODE, NO MATTER WHEN COMMITTED. THE LAW ALSO HAS THE EFFECT OF PLACING UNDER MILITARY JURISDICTION ALL PERSONS ON TRIAL BEFORE A CIVILIAN JUDGE FOR SUCH CRIMES, PROVIDED THAT FINAL JUDGMENT HAD NOT BEEN RENDERED. THE MILITARY COURTS HAD PREVIOUSLY BEEN GIVEN THE RESPONSIBILITY FOR THE PRE-TRIAL INVESTIGATION AND ARRAIGNMENT OF PEOPLE HAVING COMMITTED SUCH "CRIMES AGAINST THE NATION" IN THE LAW OF STATE SECURITY AND INTERNAL ORDER. AS POINTED OUT IN THE APRI/MAY 1974 ICJ/AI REPORT ON URUGUAY, THE CONSTITUTIONALITY OF THE LATTER LAW WAS CALLED INTO QUESTION BY A NUMBER OF DISTINGUISHED CONSTITUTIONAL AND PENAL LAWYERS, BUT ON APRIL 5, 1974, THE URUGUAYAN SUPREME COURT OF JUSTICE UPHELD THE VALIDITY OF THE LAW. IT IS TRUE THAT A "STATE OF INTERNAL WAR," ACTED UNDER ARTICLE 168(16) OF THE CON-

STITUTION AND IN ACCORDANCE WITH A RESOLUTION OF CONGRESS, WHICH IN TURN ACTED UNDER ARTICLE 85(7) OF THE CONSTITUTION (REF J).

19. THE SECOND SENTENCE IS BASICALLY CORRECT.

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FM AMEMBASSY MONTEVIDEO

TO SECSTATE WASHDC 1060

C O N F I D E N T I A L SECTION 3 OF 3 MONTEVIDEO 1343/3

ARTICLE 1 OF 14493 (ENCL. 5, REF I) DOES STATE THAT THOSE CRIMES FALLING UNDER ARTICLE 60 OF THE MPC ARE EXCLUSIVELY UNDER MILITARY JURISDICTION, REGARDLESS OF THE DATE OF THEIR COMMISSION. BUT NOWHERE DOES THE LAW STATE THAT OFFENSES COMMITTED PRIOR TO APRIL 15, 1972 WILL BE TRIED BY MILITARY COURTS UNDER THE MPC, AND IT IS A CONSIDERABLE STRETCHING OF THE LANGUAGE OF THE LAW TO ARRIVE AT THE PARTICULAR CONCLUSIONS STATED IN (A) AND (B) OF THE ICJ REPORT. THE GOU DOES NOT NOW HAVE TO RESORT TO THE FORMER DECLARATION OF A STATE OF INTERNAL WAR AS IT HAS BOTH THE LAW OF STATE SECURITY AND INTERNAL ORDER AND THE MEDIDAS PRONTAS DE SEGURIDAD (REF J) AS THE BASIS FOR LEGAL PROCEEDINGS AGAINST PERSONS ACCUSED OF TERRORISM, SUBVERSION, AND OTHER "CRIMES AGAINST THE NATION" UNDER ARTICLE 60 OF THE MPC.

20. THE CONCLUSION STATED IN THE FIRST SENTENCE MAY WELL BE TRUE INSOFAR AS A BACKLOG DOES EXIST; BUT IT IS A BACKLOG THAT PROBABLY EXISTS MOR FOR THE SAID CRIMES COMMITTED AFTER THAN BEFORE APRIL 15, 1972. IF ONE OF THE EFFECTS OF THE LAW IS TO SPEED UP THE TRIAL AND POSSIBLE SENTENCING OF SUCH DETAINEES, THAT WILL ARGUABLY HAVE THE ADVANTAGE OF CUTTING DOWN THE TIME SPENT IN PRE-TRIAL CONFINEMENT. AS FOR ARTICLE 8 OF THE AMERICAN CONVENTION ON HUMAN RIGHTS, THE SECTION DOES STATE THAT IT HAS NOT YET COME INTO FORCE AND IT WOULD NOT NECESSARILY BE APPLICABLE IN ANY CASE DUE TO THE EXTRAORDINARY NATURE OF THE CRIMES IN QUESTION (TERRORISM, SUBVERSION, AND OTHER "CRIMES AGAINST THE NATION") WHICH AFFECT THE INTEGRITY OF THE STATE.

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21. THIS SECTION APPEARS TO BE BASICALLY CORRECT, ALTHOUGH OUR INFORMATION INDICATES THAT RELEASES FOR INSUFFICIENT EVIDENCE OR BASED ON CONDITIONS OF "PROVISIONAL LIBERTY" CONTINUE.

22 AND 23. ON DECEMBER 1, 1973, THE GOU DISSOLVED THE COMMUNIST PARTY OF URUGUAY, THE SOCIALIST PARTY, AND TWELVE OTHER MARXIST POLITICAL GROUPS AND STUDENT ASSOCIATIONS (REF J). THE DISSOLUTION DECREE AUTHORIZED THE CONFISCATION OF THESE ORGANIZATIONS' GOODS AND THE CLOSING OF THEIR PLACES OF BUSINESS. OTHER MAJOR POLITICAL PARTY HEADQUARTERS REMAIN OPEN AND RETAIN ELECTED OFFICERS. THE PRESIDENTS OF THE TWO MAJOR PARTIES CONTINUE TO HOLD GOVERNMENT JOBS. (REF J). THERE IS NO TRUTH AS FAR AS THE EMBASSY CAN DETERMINE TO THE ALLEGATION THT POLITICAL ACTIVITIES ON BEHALF OF A POLITICAL GROUP WHICH HAS NOT BEEN DISSOLVED ARE PUNISHABLE WITH AN INDEFINITE PERIOD OF DETENTION UNDER MEDIDAS PRONTAS DE SEGURIDAD. THE LATTER AUTHORIZES THE ARREST OF PERSONS PRESUMABLY INVOLVED IN SUBVERSIVE ACTIVITIES, BUT ITS OPERATIVE SECTIONS SAY NOTHING ABOUT PARTIES. IN FACT, WE KNOW THAT LEADERS OF THE TWO MAJOR POLITICAL PARTIES CONTINUE TO PURSUE CONTACTS WITH GOVERNMENT OFFICIALS AND MILITARY OFFICERS TO ENSURE TO THE EXTENT POSSIBLE THAT PARTY VIEWS ARE TAKEN INTO ACCOUNT WITH RESPECT TO THEIR FUTURE ROLE IN NATIONAL POLITICAL LIFE.

24. DESPITE THAT FACT THAT THERE HAS BEEN NO "FLAT" STATEMENT BY THE GOU THAT THERE WOULD NOT BE ELECTIONS, STATEMENTS HAVE BEEN MADE THAT ELECTIONS OF THE TYPE PREVIOUSLY HELD WOULD NOT TAKE PLACE. THERE SEEMSTO BE A GENERAL CONSENSUS THAT ELCTIONS WILL NOT TAKE PLACE IN NOVEMBER. HOWEVER, THE ENTIRE ISSUE IS UNDER STUDY BY THE PRESIDENT AND THE MILITARY.

25. THE EMBASSY HAS NO DIRECT INFORMATION ON THE CASE OF NOTARIES, BUT WE HAVE HEARD SIMILAR ACCOUNTS FROM OTHER SOURCES. HOWEVER, THE GOU HAS ALLOWED WORKERS TO FREELY ELECT MEMBERS OF VARIOUS COMMISSIONS IN A NUMBER OF ESTABLISHMENTS, AND IN THOSE ELECTIONS KNOWN COMMUNISTS WERE PERMITTED TO RUN FOR OFFICE.

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